IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.808 OF 2004
IN
SUIT NO.4933 OF 2000

Simon Ligorio Fernandes & Ors. ....Plaintiffs
V/s.
Neville Menezes & Ors. ....Defendants

Mr.Clive D'Souza for the Plaintiffs.
Mr.S.N. Shah i/b Dhru & Co. for Defendant No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 5TH DECEMBER, 2006.

P.C. :

1. This is a suit for partition between the members of the family.

2. The question whether the Plaintiff is entitled to any share in the estate or not can only be determined at the final hearing of the suit.

3. Mr.Shah, the learned counsel appearing on behalf of Defendant No.1 states that Defendant No.1 will not carry out any fresh construction upon the suit property. He further states that Defendant No.1 will not sell, transfer, encumber, alienate or part with possession of the said property without the leave

of the Court. The statements are accepted.

4. Defendant No.2 is also restrained from carrying on any further construction upon the suit property or any part thereof. Defendant No.2 is further restrained from selling, encumbering, parting with possession of or creating any third party rights in respect of the suit property. It is clarified that the same shall not prevent the Defendants from carrying out usual repairs and alterations within the existing structure subject to all permissions and without affecting the FSI.

5. Apart from the present activity of conducting a school, no other commercial activity shall be done on the suit property without the leave of the Court.

6. The Notice of Motion is made returnable in due course.